

September 24, 2014

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Ms. Jocelyn Boyd, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
Synergy Business Park, The Saluda Building  
101 Executive Center Drive  
Columbia, South Carolina 29210

Re: Application of South Carolina Telecommunications Group Holdings LLC, d/b/a Spirit Communications for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services, and for Flexible Regulation of its Local Exchange Services and Alternative Regulation of its Interexchange Service Offerings Within the State of South Carolina  
**Docket No. 2014-276-C**

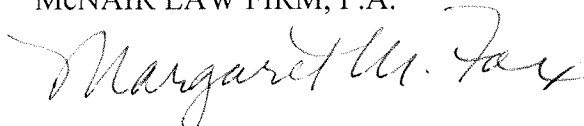
Dear Ms. Boyd:

Enclosed for filing on behalf of South Carolina Telecommunications Group Holdings, LLC, d/b/a Spirit Communications, please find the Proposed Order in the above-referenced matter.

Thank you for your assistance.

Very truly yours,

McNAIR LAW FIRM, P.A.



Margaret M. Fox

MMF:hme  
Enclosures

cc: Parties of record

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BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

DOCKET NO. 2014-276-C – ORDER NO. 2014-\_\_

SEPTEMBER \_\_, 2014

IN RE:

Application of South Carolina Telecommunications	)	
Group Holdings LLC, d/b/a Spirit Communications	)	ORDER GRANTING
For a Certificate of Public Convenience and Necessity	)	CERTIFICATE
To Provide Resold and Facilities-Based Local Exchange and	)	
Interexchange Telecommunications Services, and for	)	
Flexible Regulation of its Local Exchange Services and	)	
Alternative Regulation of its Interexchange Service	)	
Offerings Within the State of South Carolina	)	
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This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of South Carolina Telecommunications Group Holdings LLC, d/b/a Spirit Communications (“Spirit,” “Applicant” or “Company”) for a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services within the State of South Carolina (the “Application”). The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Rules and Regulations of the Commission. The Company also asked for its local exchange services to be regulated in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in Docket No. 1997-467-C, and for its interexchange service offerings to be subject to alternative regulation, pursuant to S.C. Code Ann. §58-9-585 (Supp. 2013), as was first granted by the Commission in Order Nos. 95-1734 and 96-55 issued in Docket No. 1995-661-C as modified

by Order No. 2001-997 in Docket No. 2000-407-C. The Company additionally requested certain waivers of the Commission's Regulations.

By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in a newspaper of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No petitions to intervene or comments were filed in this proceeding.

On August 13, 2014, counsel for the South Carolina Office of Regulatory Staff ("ORS") filed a letter with the Commission setting out that it had reviewed the Application and did not oppose the Commission granting the Application. The ORS also sought to be permitted to be excused from the hearing in the Docket. The Applicant did not object to the ORS request. The Hearing Examiner granted the ORS request to be excused from the hearing by Directive dated August 18, 2014. The ORS correspondence of August 13, 2014, is attached as Order Exhibit 1.

A hearing was commenced on September 22, 2014, at 10:00 a.m., at the Commission's offices. The Honorable Josh M. Minges, Hearing Examiner, presided. Margaret M. Fox, Esquire, represented the Company. Michael D. Baldwin, Senior Counsel, Business & Legal Affairs of the Applicant, appeared and testified in support of the Application.

According to the record, Spirit is a private company that was organized in the state of South Carolina on December 29, 2000. Applicant is the sole owner of South Carolina Net, Inc. ("SC Net"), a South Carolina corporation that currently holds a Certificate of Public Convenience and Necessity ("CPCN") from the State of South Carolina. SC Net has been providing long distance services in the State since 1992 and local exchange services in the State since 2000. Applicant is

in the process of restructuring its business so that future local and long distance services will primarily be provisioned directly through the Applicant. SC Net will continue offering these services as well.

Applicant seeks authority to provide resold and facilities-based local exchange and interexchange telecommunications services. Local exchange services will be offered within the present operating areas of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T”), Frontier Communications of the Carolinas, Inc. (“Frontier”), United Telephone Company of the Carolinas, Inc. d/b/a CenturyLink (“CenturyLink”), and Windstream South Carolina, LLC (“Windstream”). Interexchange services will be offered throughout the State of South Carolina. Applicant's primary market includes commercial business customers and government customers. Applicant intends to provide local exchange services, custom calling and CLASS features and bundled services such as local and long distance services in a combined package. In addition, the Company will provide to its Customers additional custom calling and class features, access to emergency call services (e.g. 911), directory assistance and other ancillary services. Applicant will provide its local and interexchange services via a combination of traditional circuit switched (i.e., time division multiplexed or “TDM”) and voice over internet protocol (“VoIP”) switching platforms. All voice services will be offered to commercial customers. Applicant’s service may use Ethernet interfaces, optical fiber and/or copper facilities and will primarily be designed and provisioned in accordance with commercial customer contracts. Applicant’s TDM and VoIP-based services are provided on its independently owned, facilities-based network, and when/where convenient, through resale of other telecommunications providers’ networks. Applicant will resell the facilities and services of AT&T, or other carriers, if and as necessary to complete its connections to its customer’s premises. Applicant also proposes

to offer resold inbound and outbound interexchange telecommunications services and operator-assisted services to its pre-subscribed Customers throughout the State of South Carolina. All services are available twenty-four (24) hours per day, seven (7) days a week.

Applicant is committed to providing access to a local operator, directory assistance, 911 services, and dual party relay services. Applicant is also willing to accept its obligations to collect Universal Service Fund, 911, and dual party relay service surcharges from its local exchange customers, and to remit those funds to the appropriate authorities.

Mr. Baldwin provided testimony regarding Spirit's technical, managerial, and financial resources to provide the services for which it requests authority. Mr. Baldwin further testified that granting Spirit's Application will serve the public interest by providing South Carolinians increased choice, high service quality, and seamless local and long distance service. Applicant is a South Carolina-based company, with employees who live and work in South Carolina, contributing to the local economy.

Mr. Baldwin testified that local services will meet the service standards required by the Commission, and that the provision of local service by Applicant will not adversely impact the availability of affordable local exchange service or otherwise adversely impact the public interest.

Mr. Baldwin testified that the Company will abide by all applicable Commission rules, regulations, and orders upon the Company receiving certification to provide intrastate interexchange and local exchange telecommunications services in South Carolina.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep its financial records in conformance with the Uniform System of Accounts ("USOA"), since it will maintain its books and records in accordance with Generally Accepted Accounting Principles ("GAAP").

Additionally, the Company seeks a waiver of 10 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. Applicant will make arrangements with those incumbent LECs who are required to publish directories in areas where Applicant provides service, whereby the names of Applicant's customers will be included in any such directories. The Company also requested that it be granted a waiver of the map filing requirement of 10 S.C. Code Ann. Regs. 103-612.2.3. Applicant's service area will initially mirror the service areas of the incumbent local exchange carriers referenced in its Application.

After full consideration of the applicable law, the Company's Application, and the evidence of record presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. The Company is a duly organized corporation which exists under the laws of the State of South Carolina.
2. The Company will provide its local and interexchange services via a combination of traditional circuit switched (i.e., time division multiplexed or "TDM") and voice over internet protocol ("VoIP") switching platforms. Applicant's service may use Ethernet interfaces, optical fiber and/or copper facilities and will primarily be designed and provisioned in accordance with commercial customer contracts.
3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. § 58-9-280(B)(1).
4. The Commission finds that the Company's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. § 58-9-280(B)(3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4).

6. The Commission finds that the services to be provided by the Company, regardless of the technology used to provide those services, will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2).

7. The Commission finds that the provision of local exchange service by the Company does not otherwise adversely impact the public interest. S.C. Code Ann. § 58-9-280(B)(5).

8. The ORS was permitted to be excused from the hearing and the fact that it did not oppose granting the Application herein is duly noted.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's provision of service will not adversely impact the availability of affordable local exchange service.

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will comply with required surcharges for 911 and dual party relay service, and remit those funds to the appropriate authorities.

5. The Commission concludes that the Company will provide services that meet the service standards of the Commission.

6. The Commission concludes that, to the extent Company provides service using Interconnected VoIP technology, that this does not in any way change or diminish the Commission's authority to regulate the Company in accordance with state law.

7. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

8. Based on the findings of fact and conclusions of law stated herein, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services within the present operating areas of AT&T, Frontier, CenturyLink, and Windstream. In addition, the Company is granted authority to provide intrastate interexchange services throughout the State of South Carolina.

9. The Commission concludes the Company's local exchange telecommunications services, regardless of the technology employed, shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 1997-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. The Commission concludes that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures



established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 1995-661-C. The Commission has previously granted this “alternative regulation” to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers who request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 1995-661-C.

11. We conclude that the Applicant’s request for waiver of 10 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. Last, we grant waivers of 10 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory, and 10 S.C. Code Ann. Regs. 103-631, which requires publication of directories.

12. If, and at such time as, Spirit offers retail residential local exchange service, the Company shall comply with 10 S.C. Code Ann. Regs. 103-607 (2013) and Commission orders pertaining to bond requirements. Also, if the company offers residential interexchange services, it will comply with orders pertaining to alternative regulation of residential interexchange service.

13. Spirit shall comply with the verification regulations governing change of preferred carriers as established by the Federal Communications Commission (“FCC”).

14. Spirit shall comply with S.C. Code Ann. § 58-9-300 (Supp. 2013) entitled “Abandonment of Service.” Additionally, to the extent applicable, Spirit agrees to adhere to the FCC’s Rules 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the

requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Spirit to provide competitive local exchange telecommunications services and interexchange telecommunications services, on a facilities-based or resold basis, specifically including through the use of VoIP technology.

2. The Company shall file, if it has not already done so by the date of issuance of his Order, its revised local tariffs. The revised tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order. The revised tariffs shall be consistent with the Commission's Rules and Regulations, and shall be filed as stated within 30 days of receipt of this Order.

3. Spirit is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate

authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial-tone telephone service in South Carolina. Located on the homepage of this Commission's website at [www.psc.sc.gov](http://www.psc.sc.gov) is a "Quick Link" column. One of the tabs in this column is called "E-911 Information." Clicking on this tab will provide a list of county and city E-911 coordinators with contact information. By this Order and prior to providing voice or dial-tone services within South Carolina, the Applicant is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

4. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina specific information. Therefore, the Company shall keep financial records on its South Carolina operations to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1<sup>st</sup>.

5. Commission gross receipts forms are due to be filed no later than August 31<sup>st</sup> of each year. The proper form for filing gross receipts information can be found at the ORS website [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov) and the appropriate form is entitled "Gross Receipts Form."

6. Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution

Worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The State USF worksheet is due to be filed annually no later than July 1<sup>st</sup> with the ORS.

7. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matter, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced. If the Company changes or modifies its name, the Company shall file such changes with the Commission for approval.

8. The Company shall conduct its business in compliance with Commission decisions and orders, both past and future.

9. The Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The Commission grants the Applicant's request for a waiver of the requirement in 10 S.C. Code Ann. Regs. 103-612.2.3 to file a map of its service territory, and a waiver of the requirement of 10 S.C. Code Ann. Regs. 103-631 to publish directories. The Company is directed to comply with all Rules and

Regulations of the Commission, unless the Commission specifically waives compliance with a regulation.

10. The Commission adopts a rate design for the Company's residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

11. The Company shall not adjust its residential interexchange rates for end users below the approved maximum level without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications Corporation, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 2013).

12. The Commission determines that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-

407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing.

13. The Commission also determines that the Company’s local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 1998-165 in Docket No. 1997-467-C.

14. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

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Nikiya Hall, Chairman

ATTEST:

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Swain E. Whitfield, Vice Chairman

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

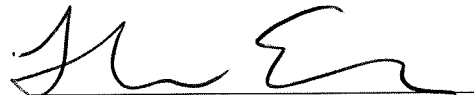
Docket No. 2014-276-C

Application of South Carolina Telecommunications Group Holdings )  
LLC, d/b/a Spirit Communications for a Certificate of Public )  
Convenience and Necessity to Provide Resold and Facilities-Based )  
Local Exchange and Interexchange Telecommunications Services, )  
and for Flexible Regulation of its Local Exchange Services and )  
Alternative Regulation of its Interexchange Service Offerings )  
Within the State of South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

I, Heather M. Elder, do hereby certify that I have this date served one (1) copy of the Proposed Order on behalf of South Carolina Telecommunications Group Holdings LLC, d/b/a Spirit Communications in the above-referenced docket upon the following parties causing said copy to be deposited with the United States Postal Service, first class postage prepaid and properly affixed thereto, and addressed as follows:

C. Lessie Hammonds, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, South Carolina 29201



Heather M. Elder, Legal Assistant  
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P. O. Box 11390  
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September 24, 2014

Columbia, South Carolina